STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of AUSTIN BILICKI, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RICHARD BILICKI, JR.,

Respondent-Appellant.

UNPUBLISHED
August 22, 2000

No. 219482
Genesee Circuit Court
Family Division
LC No. 98-110732-NA

Before: Owens, P.J., and Neff and Fitzgerald, JJ.

PER CURIAM.

Respondent appeals as of right the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(j), (k)(ii), (k)(iii), and (m); MSA 27.3178(598.19b)(3)(j), (k)(ii), (k)(iii), and (m). We affirm.

Respondent contends that the trial court's decision was based on inadmissible evidence, which requires reversal. We agree that the court erred in concluding that legally admissible evidence was not required to establish a factual basis for termination of respondent's parental rights. However, because any error was harmless, reversal is unwarranted. *In re Gilliam*, 241 Mich App 133, 137; ___ NW2d ___ (2000); *In re Snyder*, 223 Mich App 85, 92-93; 566 NW2d 18 (1997).

The rules of evidence apply at the adjudicative phase of a child protective proceeding, but not at the dispositional phase once the child is within the court's jurisdiction. MCR 5.972(C)(1), MCR 5.973(A)(4)(a); *Gilliam*, *supra*. However, if termination is sought at the initial dispositional hearing, the court may order termination only if:

> the court finds *on the basis of clear and convincing legally admissible evidence* introduced at the trial, or at plea proceedings, on the issue of assumption of court jurisdiction, that one or more facts alleged in the petition:

(a) are true,

(b) justify terminating parental rights at the initial dispositional hearing, and

(c) fall under MCL 712A.19b(3); MSA 27.3178(598.19b)(3). [MCR 5.974(D)(3); emphasis added.]

Further, "[i]f termination is sought on the basis of one or more circumstances 'new or different' from those that led to the original assumption of jurisdiction, '[l]egally admissible evidence must be used to establish the factual basis of parental unfitness sufficient to warrant termination of parental rights.'" *Gilliam*, *supra*, quoting MCR 5.974(E)(1).

In this case, although the mother consented to jurisdiction, respondent did not, and the initial proceedings addressed termination of his parental rights. Whether the circumstances are viewed as termination at an initial dispositional hearing, MCR 5.974(D)(3), or as termination on new or different grounds, MCR 5.974(E)(1), legally admissible evidence was required to establish a factual basis for the court's decision concerning respondent's parental rights.

Nonetheless, we find no error requiring reversal in regard to the court's ruling. Legally admissible evidence supported termination of respondent's rights under subsection 3(m),[1] which provides for termination if the court finds by clear and convincing evidence that:

> [t]he parent's rights to another child were voluntarily terminated following the initiation of proceedings under section 2(b) of this chapter or a similar law of another state. [MCL 712A.19b(3)(m); MSA 27.3178(598.19b)(3)(m).]

Respondent stipulated to evidence that his parental rights to another child were voluntarily terminated under § 2b, and so admitted in his testimony.

Only one statutory ground is required to terminate parental rights. *In re Huisman*, 230 Mich App 372, 384-385; 584 NW2d 349 (1998). The family court did not clearly err in finding that termination under subsection 3(m) was established by clear and convincing evidence. MCR 5.974(I); *Huisman*, *supra*.

Affirmed.

/s/ Donald S. Owens
/s/ Janet T. Neff
/s/ E. Thomas Fitzgerald

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[1] In the alternative, we likewise find that termination was proper under subsection 3(j) [reasonable likelihood of harm if returned to the parent's home], on the basis of admissible evidence.